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16 | Disclosure Statement
"PATENT"

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

S.D. AUGUSTINE ET AL.

Serial No.: 08/419,719 ✓

Filed: April 10, 1995

For: THERMAL BLANKET

Group No. 3304

Examiner: S. Graham

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

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GROUP 3304

CERTIFICATE OF MAILING

37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on the date below:

1/24/97
Date

Tenance A. Mead
Signature

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

In satisfaction of their duty of candor and fair dealing, the applicants hereby cite the documents listed on the accompanying Form PTO-1449 with respect to the above-identified patent application under the provisions of 37 CFR, 1.97(C) and 1.17(A). The filing of this Information Disclosure Statement should not be construed to mean that a search was conducted or that no other material information, as defined by 37 CFR 1.56, exists. The Examiner is respectfully requested to make of record this information if deemed relevant to the examination of this application.

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In addition, disclosure is made of the following litigation matters in which U.S. Patent No. 5,405,371 is involved:

1. Augustine Medical, Inc., Plaintiff v. Mallinckrodt Group, Inc. and Mallinckrodt Medical, Inc., Defendants, Civ. No. 4-94-CIV-875, U.S. District Court, District of Minnesota, Fourth Division;
2. Mallinckrodt Medical, Inc., Plaintiff v. Augustine Medical, Inc., Defendant, Civ. No. 4-95-CIV-1145 (formerly Case No. 4:95CV00514LOD), U.S. District Court, District of Minnesota, Fourth Division;
3. Augustine Medical, Inc., Plaintiff v. Gaymar Industries, Inc., Defendant, Civ. No. 4-94-CIV-888, U.S. District Court, District of Minnesota, Fourth Division;
4. Augustine Medical, Inc., Plaintiff v. Medisearch P.R., Inc., Baxter Healthcare Corporation, Baxter International Inc., and John K. Whitney Sr., Defendants, Civ. No. 4-96-347, U.S. District Court, District of Minnesota, Fourth Division;
5. Augustine Medical, Inc., Plaintiff v. Progressive Dynamics, Inc., Eugene Kilbourn, Robert Crozier, Blue Ridge Anesthesia & Critical Care, Inc., Brett Smith, Steven Morris, Keomed, Inc., Desmond Keogh, Central Medical, Inc. and Dennis Mills, Defendants, Civ. No. 4-96-CV-345, U.S. District Court, District of Minnesota, Fourth Division;
6. Augustine Medical, Inc., Plaintiff, v. Respiratory Support Products, Inc., Smiths Industries, Inc. (USA), Smiths Industries Medical Systems and Smiths Industries PLC, Defendants, Civ. No. 4-96-CIV-346, U.S. District Court, District of Minnesota, Fourth Division;
7. Augustine Medical, Inc., Plaintiff v. Cincinnati Sub-Zero Products, Inc., Leonard D. Berke and Steven J. Berke, Defendants, Civ. No. 4-95-CIV-637, U.S. District Court, District of Minnesota, Fourth Division; and
8. Seabrook Medical Systems, Inc., Plaintiff, v. Augustine Medical, Inc., Defendant, Civ. No. C-1-95-1149, U.S. District Court, Southern District of Ohio, Western Division.

Matter No. 2 (Mallinckrodt v. Augustine) has been moved from the Eastern District of Missouri to the District of Minnesota, Fourth Division. Matters No. 2-7 have been consolidated with Matter No. 1 for discovery.

Document A, the Deposition of Randall C. Arnold (a coinventor of the '371 patent and this application), was taken in Matter No. 2, before consolidation with Matter No. 1. Documents B-E are exhibits in Document A.

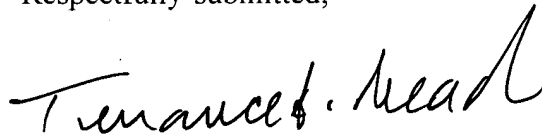
Document F, the defendant's memorandum for partial summary judgment in Matter No. 1, is referenced in the accompanying Statement by Attorney Under 37 CFR 1.175(b).

Document G, a report and recommendation by Magistrate Franklin L. Noel in Matter No. 1, includes findings to the effect that Claims 1, 3, 4 and 8 of the '371 patent are invalid under 35 U.S.C. 102(b). Documents H, I and J are memoranda related to Document G.

Activity that raised the issue discussed in Document G occurred at the Annual Meeting of the American Society of Anesthesiologists in October, 1989. This activity is described in Document A, beginning at page 85.

A check in the amount of \$230 is enclosed in accordance with § 1.97(c)) is enclosed. Please charge or credit Deposit Account 02-0460 any discrepancy. A duplicate of this paper is enclosed.

Respectfully submitted,



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